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December 20, 2004

Mary L. Cottrell, Secretary
Department of Telecommunication and Energy
One South Station, 2nd Floor
Boston, MA 02110

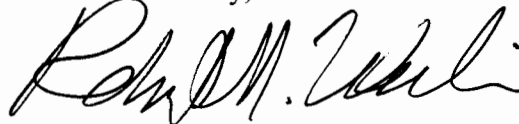
Re: D.T.E. 04-85 — Petition of Boston Edison Company and Commonwealth Electric Company for Approvals Relating to the Restructuring of Power Purchase Agreements with Northeast Energy Associates Limited Partnership

Dear Secretary Cottrell:

Enclosed for filing on behalf of Boston Edison Company and Commonwealth Electric Company, d/b/a NSTAR Electric is the Motion to Strike in the above-referenced proceeding. Also enclosed is a certificate of service.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert N. Werlin".

Robert N. Werlin

Enclosures

cc: Joan Foster Evans, Hearing Officer
Service List

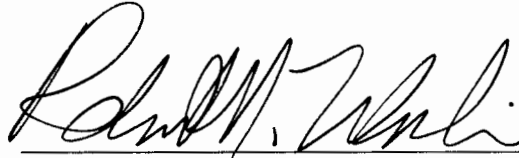
COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Boston Edison Company)
Commonwealth Electric Company)
_____)

D.T.E. 04-85

CERTIFICATE OF SERVICE

I certify that I have this day served the foregoing document upon the Department of Telecommunications and parties of record in accordance with the requirements of 220 C.M.R. 1.05 (Department's Rules of Practice and Procedures).



Robert N. Werlin, Esq.
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Dated: December 20, 2004

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Petition of Boston Edison Company and
Commonwealth Electric Company
for Approvals Relating to the Restructuring of
Purchase Power Agreements with
Northeast Energy Associates Limited Partnership

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D.T.E. 04-85

**MOTION OF NSTAR ELECTRIC TO STRIKE THE APPENDICES IN
THE ATTORNEY GENERAL REPLY BRIEF OR,
IN THE ALTERNATIVE, TO ACCORD NO WEIGHT THERETO**

On December 10, 2004, the Office of the Attorney General filed with the Department of Telecommunications and Energy (the “Department”) his Reply Brief (the “Attorney General Reply Brief”) in this proceeding. The Attorney General’s Reply Brief consists of information attached as Appendices A through D, purportedly calculating the impact of Locational Installed Capacity (“LICAP”) prices on the analysis of above-market costs as set forth in Exhibit NSTAR-RBH-6 in this proceeding and other cases. None of these calculations has been included in the record of this proceeding, and for the reasons described herein, Boston Edison Company and Commonwealth Electric Company, d/b/a NSTAR Electric (“NSTAR Electric” or the “Companies”) move to strike Appendices A through D from the Attorney General’s Reply Brief or, in the alternative, to request that the Department accord no weight to the calculations set forth therein.

II. ARGUMENT

The Attorney General’s entire reply brief is nothing more than a cover letter for the submission of Appendices A through D. Under long-standing Department precedent,

the presentation of extra-record evidence is an unacceptable tactic and potentially prejudicial to the rights of other parties, even if the evidence is ultimately excluded. Boston Gas Company, D.P.U. 88-67 (Phase II) at 7 (1989) (Department noted the adverse affect of presenting extra-record evidence by analogizing to one being unable to “un-ring a bell”). Because Appendices A through D are extra-record evidence, presented long after the close of the record in this proceeding and have been neither supported by a witness nor been subject to cross-examination, the Department should strike Appendices A through D from the Attorney General’s reply brief.¹

Moreover, even if the calculations contained in Appendices A through D were permitted on the record, they are fatally flawed and do not support the Attorney General’s argument.² It should also be noted that it is very difficult to analyze the Appendices because the electronic spreadsheets provided to the Companies as Appendices A through D have values, not formulae, in the cells. Therefore, the Companies have assumed that the Attorney General has performed his arithmetic correctly, and the following will focus on the methodology described in his initial brief.

The Attorney General offers Appendix A as support for the following statement in his Initial Brief:

In RR-AG-3, the Company indicates that the benefits of the proposed restructuring decrease from 10.97% to 10.68%. When some assumptions are changed and some errors are corrected, the change in the economics of the restructuring is more dramatic. If the prices in the Company’s FERC

¹ As an initial matter, by the admission of the Attorney General, Appendices B through D are not related to this proceeding (Attorney General Reply Brief, n. 1). Accordingly, these Appendices should be stricken without further consideration by the Department.

² Although the Attorney General did not provide these calculations in his initial brief, he did describe the approach (Attorney General Initial Brief at 12). The Companies responded at some length in their Reply Brief and will not repeat that response in full in this motion. See Companies Reply Brief at 8-12).

testimony are in current dollars and the LICAP prices for 2011 and beyond are based on an average of all the years actually calculated by the Company, and the incremental LICAP value is based on the difference between the Global capacity prices and the FERC testimony prices expressed as dollars per kW, the economics of the restructured contracts are negative.

(Attorney General Initial Brief at 12).

Appendix A purports to demonstrate how the NEA Restructuring would reduce the above-market amounts under the contracts under the above-referenced assumptions.³ However, as described in more detail in the Companies' Reply Brief and their Response to the Attorney General Appeal of the Hearing Officer's December 2, 2004 Ruling, the Attorney General's calculations are based on faulty logic and false premise.

First, the Attorney General incorrectly assumes in Appendix A-1 that the LICAP figures in Exhibit AG-1 (FERC Testimony of James Daly) need to be inflated to reflect a nominal figure. However, there is no indication that the values contained in Exhibit AG-1 are denominated in real dollars and in fact, CEA confirmed with the witness sponsoring Exhibit AG-1 before FERC, Mr. Daly, that the Clearing Price by Zone values, as shown in his testimony, are presented in nominal dollars (RR-AG-3; Response to the Attorney General Appeal of the Hearing Officer's December 2, 2004 Ruling at 8). Accordingly, the Attorney General has improperly double-counted the effect of inflation on the LICAP rates underlying the calculations in the Appendices, resulting in a significant error in determining the reduction in above-market costs associated with the NEA Restructuring.

³ The evaluation of above-market amounts was used by NSTAR Electric as a "screening tool" to compare and evaluate proposals (Exh. AG-3-4 [D.T.E. 04-60]; see also Tr. 1, at 89-90, 101 [D.T.E. 04-60]). The appropriate measure of customer impacts are contained in Mr. Lubbock's exhibits (Exh. NSTAR-GOL at 24-25; RR-DTE-3, Attachment DTE-3(d) and Attachment DTE-3(h)).

In addition, in attempting to compare prices in the Henwood Forecast to LICAP projections contained in Exhibit AG-1, the Attorney General has not properly converted capacity prices (which are listed in Exhibit AG-1 on a dollar per kilowatt (“kW”) basis) to a dollar-per-kilowatt-hour (“kWh”) basis (as necessary for use in the Henwood Forecast). Because capacity values are stated in Exhibit AG-1 in \$/kW-years (or kW-months) for a given amount of generating capacity and the Henwood Forecast market prices are stated in \$/kWh, it is necessary to convert the capacity value amounts in Exhibit AG-1 to a \$/kWh basis in order to make a proper comparison. The Attorney General fails to make this conversion, but instead calculates something called “Incremental LICAP Value” on Appendix A-2. This calculation creates a false, “apples to oranges” comparison because it does not account for the fact that the Henwood Forecast is an “all-in” \$/kWh number, which requires the conversion of per-kW capacity charges into per-kWh prices. This is precisely what was done in the Companies’ response to Record Request AG-3 and what the Attorney General has failed to do. By failing to perform this conversion, the Attorney General is adopting a methodology that is inconsistent with the Henwood Forecast and results in a distorted comparison that significantly underestimates the reduction in above-market costs associated with the NEA Restructuring. Accordingly, the Department should give no weight to Appendices A through D, because the calculations therein are based on improper assumptions and are inconsistent with the assumptions used in the Henwood Forecast.

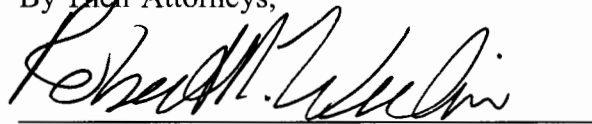
III. CONCLUSION

For the reasons stated above, the Companies respectfully request that the Department strike Appendices A through D of the Attorney General's Reply Brief, or, in the alternative, give no weight to the information provided therein.

Respectfully submitted,

**BOSTON EDISON COMPANY
COMMONWEALTH ELECTRIC COMPANY**

By Their Attorneys,

A handwritten signature in black ink, appearing to read "Robert N. Werlin", is written over a horizontal line.

Robert N. Werlin, Esq.
John K. Habib, Esq.
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Dated: December 20, 2004